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7 General Insolvency Counsel for Appellees, Debtors and Debtors-in-Possession

8  
9 **UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

10 In re:

- 11  X-TREME BULLETS, INC.  
 AMMO LOAD WORLDWIDE, INC.  
 CLEARWATER BULLET, INC.  
 FREEDOM MUNITIONS, LLC  
 HOWELL MACHINE, INC.  
 HOWELL MUNITIONS &  
12 TECHNOLOGY, INC.  
 LEWIS-CLARK AMMUNITION  
COMPONENTS, LLC  
 COMPONENTS EXCHANGE, LLC  
13  All Debtors.

14 Debtors and  
15 Debtors-in-Possession.

16 District Court Case No. 3:19-cv-637-MMD

17 Bankruptcy Case No. 18-50609-btb

18 Jointly Administered with

Bk. Case Nos. 18-50610-btb; 18-50611-btb;  
18-50613-btb; 18-50614-btb; 18-50615-btb;  
18-50616-btb; and 18-50617-btb

19 Chapter 11 Proceedings

20 **DEBTOR-APPELLEES' RESPONSE TO**  
**UNITED STATES'S MOTION TO**  
**VACATE DEADLINES; CERTIFICATE**  
**OF INTERESTED PARTIES**

21 UNITED STATES OF AMERICA  
22 DEPARTMENT OF THE TREASURY  
23 ALCOHOL AND TOBACCO TAX AND  
TRADE BUREAU,

24 Appellant,

25 vs.

26 X-TREME BULLETS, INC., AMMO LOAD  
WORLDWIDE, INC., CLEARWATER  
BULLET, INC., FREEDOM MUNITIONS,  
LLC, HOWELL MACHINE, INC., HOWELL  
MUNITIONS & TECHNOLOGY, INC.,  
LEWIS-CLARK AMMUNITION  
COMPONENTS, LLC, COMPONENTS  
EXCHANGE, LLC, KASH CA, INC.; DAVID  
HOWELL, Z.B. N.A. dba ZIONS FIRST  
NATIONAL BANK, CFO SOLUTIONS, LLC  
dba ADVANCED CFO, Matthew McKinlay  
and Valerie Grindle

27  
28 Appellees.

1           **TO THE HONORABLE MIRANDA M. DU, UNITED STATES DISTRICT COURT**  
 2           **JUDGE, AND THE MOVANT, UNITED STATES OF AMERICA ON BEHALF OF THE**  
 3           **DEPARTMENT OF THE TREASURY ALCOHOL AND TOBACCO TAX AND TRADE**  
 4           **BUREAU:**

5           X-Treme Bullets, Inc., Ammo Load Worldwide, Inc., Clearwater Bullet, Inc., Freedom  
 6           Munitions, LLC, Howell Machine, Inc., Howell Munitions & Technology, Inc. (“HMT”), Lewis-  
 7           Clark Ammunition and Components, LLC and Components Exchange, LLC (collectively,  
 8           “Debtor-Appellees”), the appellees herein and the debtors and debtors-in-possession in the  
 9           Chapter 11 cases pending in the United States Bankruptcy Court for the District of Nevada  
 10          (“Bankruptcy Court”), hereby submit this Response to the Motion to Vacate Deadlines (“Motion”)  
 11          filed by the United States of America, on behalf of the Department of the Treasury Alcohol and  
 12          Tobacco Tax and Trade Bureau (“TTB”).

13          As a preliminary matter, the Debtor-Appellees object to certain factual and legal assertions  
 14          made by the TTB in the Motion, which are erroneous and not supported by the record before the  
 15          Bankruptcy Court:

16          1.       The TTB asserts that the Bankruptcy Court approved a compromise which  
 17          “proposed selling the debtors’ purported assets free and clear of the United States’ liens.”  
 18          Motion, 2:7-8. In fact, the TTB has no lien against the assets of the Debtor-Appellees.  
 19          The TTB has filed a tax lien against the assets of a non-debtor entity, Twin River Contract  
 20          Loading, Inc. (“Twin River”), but has not filed any lien against any assets of any Debtor-  
 21          Appellee. In the nearly 1-1/2 years since the Debtor-Appellees’ Chapter 11 cases have  
 22          been pending, the TTB has failed to establish a factual or legal basis for the assertion of a  
 23          lien against the Debtor-Appellees’ assets.

24          2.       The TTB asserts that “the law requires that it should be afforded the chance  
 25          to prove, through discovery and an adversary proceeding, that the United States’ liens  
 26          attached to these assets with a priority not recognized by the compromise...” Motion, 2: 8-  
 27          11. In fact, the TTB failed to file a proof of claim as to seven of the eight Debtor-  
 28          Appellees prior to the claims bar date established by the Bankruptcy Court. Therefore, any

1 claim (whether secured or unsecured) that the TTB may assert against any of such seven  
 2 Debtor-Appellees is barred pursuant to Rule 3003(c)(2) of the Federal Rules of Bankruptcy  
 3 Procedure. As to the one Debtor-Appellee (HMT) as to which the TTB filed a proof of  
 4 claim, such proof of claim contains no meaningful averments demonstrating that the TTB  
 5 has any valid or enforceable lien against HMT's assets and, hence, such proof of claim is  
 6 not entitled to a presumption of validity as a matter of bankruptcy law. The Debtors and  
 7 the Official Committee of Unsecured Creditors have filed jointly an objection to the TTB's  
 8 proof of claim, demonstrating, among other things, that the TTB's unsupported assertion of  
 9 a lien against the assets of the Debtor-Appellees fails as a matter of bankruptcy law, and  
 10 such objection is pending before the Bankruptcy Court. The TTB already has taken both  
 11 informal and formal discovery in the Debtor-Appellees' Chapter 11 cases. No amount of  
 12 additional discovery will cure the legal defects in the TTB's arguments regarding its  
 13 purported lien.

14 The Debtor-Appellees note that the deadline for the TTB to have filed its opening brief  
 15 was November 4, 2019, and that the TTB has allowed such deadline to expire without filing a  
 16 brief. The Debtors cannot, therefore, file any responsive brief.

17 As to the merits of the Motion, the TTB seeks to vacate the briefing schedule established  
 18 by this Court on the basis that the TTB seeks to consolidate the three pending appeals (Case  
 19 Nos. 3:19-cv-00637-MMD, 3:19-cv-00666-MMD and 3:19-cv-00667-MMD) such that the Court  
 20 will issue a consolidated briefing schedule. However, to date, the TTB has failed to take any  
 21 action to consolidate the three appeals. The Debtor-Appellees do not oppose the TTB's Motion  
 22 subject to and conditioned upon the TTB's seeking promptly to consolidate the three pending  
 23 appeals.

24 DATED: November 13, 2019

**WINTHROP GOLUBOW HOLLANDER LLP**

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By: /s/ Robert E. Opera

Robert E. Opera

Peter W. Lianides

Counsel for Debtor-Appellees

## **CERTIFICATE OF INTERESTED PARTIES**

In accordance with Fed.R.Civ.P. 7.1 and Local Rule 7.1-1, the undersigned, counsel of record for Debtor Appellees, certifies that the following have a direct, pecuniary interest in the outcome of this case:

In re:

- X-Treme Bullets, Inc., a Nevada corporation
  - Ammo Load Worldwide, Inc., an Idaho corporation
  - Clearwater Bullet, Inc., an Idaho corporation
  - Freedom Munitions, LLC, an Idaho limited liability company
  - Howell Machine, Inc., an Idaho corporation
  - Howell Munitions & Technology, Inc., an Idaho corporation
  - Lewis-Clark Ammunition and Components, LLC, an Idaho limited liability company
  - Components Exchange, LLC, an Idaho limited liability company
  - KASH CA, Inc.
  - David Howell
  - Z.B. N.A. dba Zions First National Bank
  - CFO Solutions, LLC dba Advanced CFO
  - Matthew McKinlay
  - Valerie Grindle

These representations are made to enable judges of the Court to evaluate possible disqualifications or recusal.

DATED: November 13, 2019

WINTHROP GOLUBOW HOLLANDER LLP

By: /s/ Robert E. Opera  
Robert E. Opera  
Peter W. Lianides  
Counsel for Debtor-Appellees

**PROOF OF SERVICE**

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of Orange, State of California, and not a party to the above-entitled cause.

My business address is: 1301 Dove Street, Suite 500, Newport Beach, CA 92660.

I served a true copy of the: **DEBTOR-APPELLEES' RESPONSE TO UNITED STATES'S MOTION TO VACATE DEADLINES; CERTIFICATE OF INTERESTED PARTIES**

On **November 13, 2019**, I checked the CM/ECF docket for this case or adversary proceeding and determined that the following persons are on the Court's Service List to receive CM/ECF transmission at the email addresses stated below:

- **Louis Martin Bubala , III** lbubala@kcnvlaw.com, cbrimm@kcnvlaw.com, mmarsch@kcnvlaw.com
- **Stephen R. Harris** steve@harrislawreno.com, norma@harrislawreno.com, ellie@harrislawreno.com, helena@harrislawreno.com
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- **Robert Opera** ropera@wcghlaw.com, jmartinez@wcghlaw.com
- **Landon Yost** landon.m.yost@usdoj.gov

**SERVED BY EMAIL** On **November 13, 2019**, I served the following persons and/or entities by email as follows:

**Attorney for David Howell** - Todd Ringstad, Esq. and Becky Metzner - todd@ringstadlaw.com; becky@ringstadlaw.com

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

November 13, 2019 Jeannie Martinez

/s/ *Jeannie Martinez*

Date

Printed Name

Signature